

**REMARKS**

Claims 1, 3 and 11 are amended and claims 2 and 12 are canceled herein. Support for the Amendment is found, for example, in paragraph [22] bridging pages 5-6 in the original specification and in the original claims. Hence no issues of new matter are presented.

Accordingly, upon entry of the Amendment, claims 1, 3-11 and 13-20 will be all of the claims pending in the application.

**I. Response to Claim Rejections Under 35 U.S.C. § 112, 2<sup>nd</sup> Paragraph**

A. On page 2 of the Office Action, claims 1-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite. Specifically, the Examiner states that in claims 1 and 11, the description of the flaps as having "first side, a second side, a front side, a back side and a top edge and bottom edge" is confusing and unclear, because the difference between the first and second sides, and the front and back sides is not evident. The Examiner suggests using the terms "right and left edges" instead.

Claims 1 and 11 are amended herein to recite a right edge and a left edge as suggested by the Examiner, thereby obviating the rejection.

Accordingly, Applicant respectfully requests withdrawal of the rejection.

B. Claims 2 and 12 are said to be redundant in reciting a conduit since claims 1 and 11 already recite openings "for providing a conduit".

Applicants respectfully submit that claims 1 and 11 are amended to recite at least one conduit for channeling and/or dispensing fluid and claims 2 and 12 are canceled herein, thereby

obviating the rejection.

Accordingly, Applicant respectfully requests withdrawal of the rejection.

## **II. Response to Claim Rejections For Obviousness Under 35 U.S.C. § 103**

A. Claims 1-4, 6-14, and 16-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over DiTommaso in view of Yoshida et al.

Applicant respectfully traverses the rejection and submits that the Examiner has not made a *prima facie* showing of obviousness.

The present invention includes a base member, legs, a seat member, a back support member and flap portions on each side of the back support member wherein the flap portions have dispensing holes on the front side. Further a conduit is provided in at least one of the legs, the base member, the seat member, the back support and the flap portions of the claimed chair device. The configuration of the present invention allows an occupant to sit in the chair and bathe and receive water all over the body.

DiTamasso teaches a collapsible portable chair device. DiTamasso does not teach the flap portions, dispensing holes or the conduit of the present invention. On the other hand, the chair device of Yoshida et al is not portable and does not include legs through which a fluid conduit can be provided. Further, the arms of the device taught by Yoshida et al are different from the flap portions of the presently claimed invention.

It has been established that if a proposed modification of the prior art would render the prior art invention unsatisfactory for its purpose, then there is no suggestion or motivation to

make the proposed modification. *In re Gordon*, 733 F.2d 900 (Fed. Cir. 1984). In this regard Applicant submits that since DiTamasso teaches a collapsible portable chair one of ordinary skill in the art would not have been motivated to modify the chair of DiTamasso by adding the arm portions taught by Yoshida et al because it would interfere with the collapsibility of the chair of DiTamasso. Further, modifying the chair of DiTamasso by providing a conduit as suggested by the Examiner would also interfere with the collapsibility and portability of the chair of DiTamasso, thereby rendering the chair of DiTamasso unsuitable for the desired purpose.

Further, it has been established that the prior art must suggest the desirability to modify or combine disclosures. The fact that references can be combined or modified is not sufficient to establish *prima facie* obviousness. *In re Mills*, 916 F.2d 680, 16 USPQ2d 1430 (Fed. Cir. 1990). It is also insufficient to establish *prima facie* obviousness based on the assertion that a modification is within the capabilities of one of ordinary skill in the art without an objective reason to make the modification. See *Ex parte Levengood*, 28 USPQ2d 1300 (Bd. Pat. App. & Inter. 1993); *In re Kotzab*, 217 F.3d 1365, 1371, 55 USPQ2d 1313, 1318 (Fed. Cir. 2000); *Al-Site Corp. v. VSI int'l Inc.*, 174 F.3d 1308, 50 USPQ2d 1161 (Fed. Cir. 1999); and MPEP § 2143.01.

Thus, one of ordinary skill in the art would not have been motivated to combine DiTomasso and Yoshida et al with a reasonable expectation of achieving the claiomed invention as recited in the claims. Further, even if DiTomasso and Yoshida et al were combined the presently claimed inventtion would not be achieved.

Accordingly, Applicants respectfully request withdrawal of the rejection.

**B.** Claims 5 and 15 are rejected under 35 U.S.C. § 103(a) as being unpatentable over DiTommaso in view of Yoshida et al, as applied to the claims above, and further in view of Segar.

It is the Examiner's position that it would have been an obvious modification to one with ordinary skill in the art, to include a shower head in the chair device of Di Masso as such is shown to be well known in the art by Segar (Fig. 1).

Applicant respectfully submits that claims 5 and 15 depend from claims 1 and 11, respectively, and therefore these claims are distinguished over the art for at least the same reasons.

### **III. Conclusion**

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

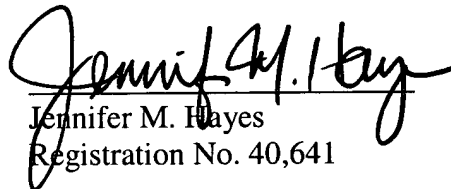
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The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,

SUGHRUE MION, PLLC  
Telephone: (202) 293-7060  
Facsimile: (202) 293-7860

  
Jennifer M. Hayes  
Registration No. 40,641

WASHINGTON OFFICE

23373

CUSTOMER NUMBER

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